

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the matter of the Application of SIERRA
PACIFIC POWER COMPANY for an Order
Authorizing the Sale of Four Hydroelectric
Generation Plants on the Truckee River to the
Truckee Meadows Water Authority.

Application 02-12-007
(Filed December 5, 2002)

**ADMINISTRATIVE LAW JUDGE'S RULING
ON SCHEDULING AND APPLICABILITY
OF THE CALIFORNIA ENVIRONMENTAL QUALITY ACT**

Pursuant to Rule 17.1(a) and 17.1(b)(2) of the Commission's Rules of Practice and Procedure,¹ this ruling sets forth the determination that this application is subject to the provisions of the California Environmental Quality Act of 1970² (CEQA) as an integral part of the Commission's discretionary decision-making process.

Background

Sierra Pacific Power Company (Sierra Pacific) requests an exemption from the California Pub. Util. Code § 851 that governs transfers of utility property.³ Sierra Pacific proposes to sell the water rights and assets associated with four

¹ All references to Rules are to the Commission's Rules of Practice and Procedure found in Title 20 of the California Code of Regulations.

² Public Resources Code Sections 21000 et Seq.

³ All section references are to the Public Utilities Code unless otherwise indicated.

run-of-the-river hydroelectric facilities located on the Truckee River, at Farad, Ca., Fleish, Verdi and Washoe, Nevada to the Truckee Meadows Water Authority (TMWA). The TMWA is a publicly owned municipal water utility that provides retail commercial and residential water services to customers in portions of the cities of Reno and Sparks, Nevada. Alternatively, Sierra Pacific seeks expedited approval of the sale under § 851.

As an integral part of the Commission's decision-making process, it will be necessary for Sierra Pacific to demonstrate sufficient evidence to allow the Commission to comply with CEQA. Sierra Pacific indicates that both the National Environmental Policy Act (NEPA) and CEQA apply to the renegotiated operating agreements or the Truckee River Negotiated Settlement (TROA), which underlies the transfer as an element of Public Law 101-618, the Pyramid Lake/Truckee-Carson Water Rights Settlement.

The Bureau of Reclamation, Fish and Wildlife Service, and the California Department of Water Resources have already commenced a joint NEPA/CEQA evaluation so there is no need to consider whether to exert Lead Agency status at this time. However, the Commission cannot make a discretionary decision to approve or deny the proposed transfer until there is a certified environmental document. Nor can the Commission consider Sierra Pacific's suggestion of issuing a proposed Notice of Preparation of a Negative Declaration⁴ when there is a NEPA/CEQA evaluation extant for the project. Therefore, Sierra Pacific must supplement its application when there is an environmental document that will inform the Commission's decision in this matter.

⁴ Rule 17.1(f)(1)(A).

IT IS RULED that:

1. The California Environmental Quality Act applies to this application and Sierra Pacific Power Company must supplement the application when there is a certified environmental document.
2. The Commission will not consider a discretionary action prior to the completion of an appropriate environmental review.

Dated January 13, 2003, at San Francisco, California.

/s/ DOUGLAS LONG

Douglas Long
Administrative Law Judge

CERTIFICATE OF SERVICE

I certify that I have by mail this day served a true copy of the original attached Administrative Law Judge's Ruling On Scheduling And Applicability Of The California Environmental Quality Act on all parties of record in this proceeding or their attorneys of record.

Dated January 13, 2003, at San Francisco, California.

/s/ KRIS KELLER

Kris Keller

N O T I C E

Parties should notify the Process Office, Public Utilities Commission, 505 Van Ness Avenue, Room 2000, San Francisco, CA 94102, of any change of address to insure that they continue to receive documents. You must indicate the proceeding number on the service list on which your name appears.

The Commission's policy is to schedule hearings (meetings, workshops, etc.) in locations that are accessible to people with disabilities. To verify that a particular location is accessible, call: Calendar Clerk (415) 703-1203.

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